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SUBJECT: ANVIL TRIAL VERDICT QUESTIONED

REF: KINSHASA 178

Classified By: DCM TDougherty for reasons 1.4 b/d.

¶1. (SBU) The June 28 military court verdict finding Anvil Mining employees and several Congolese soldiers not guilty in the FARDC's killing of dozens of villagers in Kilwa (Katanga province) in October 2004 has drawn criticism from UN High Commissioner for Human Rights Louise Arbour. Arbour said she is "concerned at the court's conclusions" in the trial which began in December (reftel). The defendants included three civilians, two of whom no longer work for the Australian mining company Anvil. All three civilians pleaded not guilty and were acquitted. Nine Congolese soldiers were also acquitted, while four soldiers were convicted, two receiving life in prison and two receiving shorter sentences. The court's ruling is to be reviewed by an appeal court.

¶2. (U) In a statement released by Arbour, she expressed concerns that the court had concluded the killings were "the accidental results of fighting, despite the presence at the trial of substantial eye-witness testimony and material evidence pointing to the commission of serious and deliberate human rights violations." She noted she was "pleased that an appellate instance will have the opportunity to revisit these findings." Arbour urged the appeal court "to fully and fairly weigh all the evidence before it reaches the appropriate conclusions that justice and the rights of the victims demand."

¶3. (C) Comment: Post was not surprised by the verdict as Anvil executives had intimated to mission officers at a June meeting at USAID they expected a majority of judges would vote to acquit. Econoff reported an Anvil official said the governor of Katanga had spoken with the chief judge and was told the majority of the judges were "okay." The unguarded comment from the Anvil executive is typical of the clumsiness the Australian-based, Canadian-incorporated company has exhibited since the Kilwa incident of 2004. While there is no convincing evidence that Anvil was knowingly complicit in the Kilwa massacre, the company handled the aftermath poorly, making misleading and contradictory statements to the media. It found itself in another sticky situation with the drowning of an artisanal miner on its site in April 2006, which led to violence and more deaths; allegations were made that the company's security company was implicated in the drowning.

¶4. (C) Comment cont'd: Anvil has been on a ham-handed charm offensive since 2004. While its social development work in a coalition of mining companies, facilitated by a USAID-funded grantee, is admirable, the company has repeatedly attempted to ingratiate itself with the U.S. Mission. Its CEO has sent numerous letters and e-mails to embassy officers (including the Ambassador), and the company tries to emphasize its purported link with the USG. At the June meeting with

mission officers, an Anvil official asked how long it would take to "rehabilitate" the company's reputation with us. As Anvil is a Canadian-Australian entity, we have no direct stake in the company's issues, and we have pursued a policy not to advocate for Anvil. A perception that Anvil's association with Mission officers and its participation in the social development coalition constitute an implicit seal of USG approval could potentially undermine our efforts to promote the rule of law, and general USG credibility.

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